
A BILL FOR AN ACT

RELATING TO WATER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 183C, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . WATER DEVELOPMENT**

5 **§183C-A Watershed areas.** (a) The department shall
6 designate areas that are watersheds after conducting a public
7 hearing pursuant to section 91-3.

8 (b) The department shall plan and coordinate with other
9 departments and the counties regarding the use of watershed
10 areas.

11 **§183C-B Use of funds for watershed areas.** (a) Funds as
12 may be appropriated shall only be used by the department to:

- 13 (1) Acquire by purchase or exchange any land, or any
14 interest in any land, within an area that the
15 department has designated as a watershed pursuant to
16 section 183-A; and



(2) Acquire by condemnation, forest reserve easements in any watershed area; provided that no land shall be subject to condemnation by the department if the owner thereof, prior to commencement of condemnation proceedings, has surrendered in perpetuity the care, custody, and control of the land to the State as a forest reserve; provided further that no funds appropriated by this part shall be used to condemn all or any portion of, or any interest in, any parcel of land now held in fee simple by one or more persons, any parcel that has a total area of twenty acres or less, if on July 1, 1949, any portion of the parcel was improved or used for residential purposes, unless the lot or lots are, after July 1, 1949, subdivided for transfer of title into lot sizes of less than one-third acre, in which case all the lots of less than one-third acre may be condemned, and the prohibition thereof shall also be applicable to any lots into which any such parcel shall be subdivided whether or not the lots after the subdivision shall be improved or unimproved.



1 Nothing in this subsection shall prohibit the department from
2 accepting surrenders for a term of years as provided in section
3 183-15.

4 (b) When any forest reserve easement is acquired, the
5 department shall protect and promote the forest growth thereon
6 and ensure that any water rights of the fee simple owner shall
7 not be impaired.

8 **§183C-C Effect on other agencies.** This part shall not
9 amend, limit, or in any other manner affect the powers of
10 condemnation conferred upon the several counties, the board of
11 water supply of the city and county of Honolulu, the department
12 of land and natural resources, or public utility water
13 companies, by any other law, it being the intent of this part to
14 provide additional funds for the use of the department and to
15 only limit the aforementioned entities in the use of the
16 additional funds.

17 **§18C3-D Use of lands and funds.** No land or interest
18 therein acquired as a watershed area or under this part shall be
19 used for any purpose other than for a forest reserve or purposes
20 directly connected with water supply development nor shall any



1 provision of this part be construed to authorize the expenditure
2 of funds appropriated for the acquisition of any water rights.

3 **§183C-E Vouchers for expenditures.** Notwithstanding any
4 other law to the contrary, moneys appropriated shall be expended
5 upon warrants drawn by the comptroller of the State upon
6 vouchers signed by the department of land and natural
7 resources."

8 SECTION 2. Chapter 183, Hawaii Revised Statutes, is
9 amended by amending its title to read as follows:

10 "CHAPTER 183

11 FOREST RESERVES [~~-, WATER DEVELOPMENT,~~] AND ZONING"

12 SECTION 3. Chapter 183C, Hawaii Revised Statutes, is
13 amended by designating sections 183C-1 to 183C-9 as part I,
14 entitled "General Provisions".

15 SECTION 4. Section 183C-2, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding two new definitions to be appropriately
18 inserted and to read:

19 "Forest reserve easement" means and includes the right to
20 the possession and control of land for the purposes of
21 protecting and promoting forest growth thereon and of protecting



1 the surface and underground waters from pollution or
2 contamination, including, without limitation to the generality
3 of the foregoing, the right to exclude the owner in fee (except
4 as hereinafter provided) and all others from the land; provided
5 that the term shall not include any water right, nor shall it
6 authorize the department to deprive the fee simple owner or the
7 owner's lessee of the right to enter upon the owner's land for
8 the purpose of taking, developing, or storing water, or for any
9 other purpose incidental to the full use and enjoyment of the
10 owner's water rights, or of any other rights in the land,
11 provided reasonable means be taken to prevent undue destruction
12 of forest cover and pollution or contamination of water by such
13 activity.

14 "Watershed" means:

15 (1) An area from which the domestic water supply of any
16 city, town or community is or may be obtained; or

17 (2) An area where water infiltrates into artesian or other
18 groundwater areas from which the domestic water supply
19 of any city, town, or community is or may be
20 obtained."



1 2. By amending the definition of "conservation district"
2 to read:

3 ""Conservation district" means those lands within the
4 various counties of the State bounded by the conservation
5 district line, as established under provisions of Act 187,
6 Session Laws of Hawaii 1961, and Act 205, Session Laws of Hawaii
7 1963, or future amendments thereto[-], and those lands
8 designated by the department as watershed areas as of July 1,
9 2018."

10 SECTION 5. Section 183C-4, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) The department shall adopt rules governing the use of
13 land within the boundaries of the conservation district that are
14 consistent with the conservation of necessary forest growth,
15 the conservation and development of land and natural resources
16 adequate for present and future needs, the protection and
17 management of watersheds, and the conservation and preservation
18 of open space areas for public use and enjoyment. No use except
19 a nonconforming use as defined in section 183C-5, shall be made
20 within the conservation district unless the use is in accordance
21 with a zoning rule."



SECTION 6. Section 183C-5, Hawaii Revised Statutes, is amended to read as follows:

"~~[f]~~§183C-5~~[f]~~ **Nonconforming uses.** Neither this chapter nor any rules adopted hereunder shall prohibit the continuance of the lawful use of any building, premises, or land for any trade, industrial, residential, or other purpose for which the building, premises, or land was used ~~[on]~~:

(1) On October 1, 1964 ~~[, or at]~~;

(2) On July 1, 2018; provided that this paragraph shall apply only to those lands that were watershed areas on July 1, 2018; or

(3) At the time any rule adopted under authority of this part takes effect.

All such existing uses shall be nonconforming uses. Any land identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, the construction of a single family residence. Any structures may be subject to conditions to ensure they are consistent with the surrounding environment."

SECTION 7. Chapter 183, part III, Hawaii Revised Statutes, is repealed.



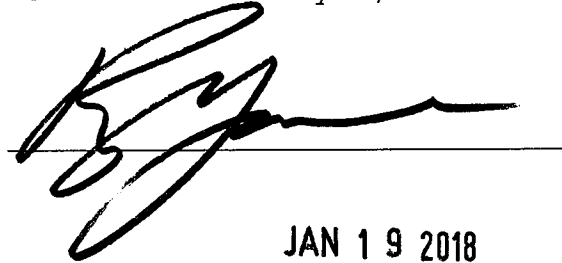
1 SECTION 8. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 9. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect on July 1, 2018.

8

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "R. Ryan", is written over a horizontal line.

JAN 19 2018



H.B. NO. 2124

Report Title:

Watershed Areas; Conservation District; DLNR

Description:

Establishes watershed areas designated by the Department of Land and Natural Resources as part of the conservation district. Requires the Department of Land and Natural Resources to plan and coordinate the use of watershed areas.

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